

FISCAL NOTE

Bill #: SB0468

Title: 10% surtax on individual income taxes and corporation license tax

Primary Sponsor: Harrington, D

Status: As Introduced

Sponsor signature	Date	Chuck Swysgood, Budget Director	Date
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Fiscal Summary

FY 2004 Difference

FY 2005 Difference

Revenue:

State Special Revenue

\$84,398,000

\$34,839,000

Net Impact on General Fund Balance:

\$0

\$0

- | | |
|---------------------------------------------------------------------|--------------------------------------------------------|
| <input type="checkbox"/> Significant Local Gov. Impact | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts |
| <input checked="" type="checkbox"/> Dedicated Revenue Form Attached | <input type="checkbox"/> Needs to be included in HB 2 |

Fiscal Analysis

ASSUMPTIONS:

1. This bill provides for a 10% surtax to be applied to individual income and corporation license tax liability for tax years 2003 and 2004. Effective on passage and approval, the bill applies to tax years beginning after December 31, 2002.
2. The bill provides that the revenue collected from the surtax is to be deposited in the state special revenue fund provided for in Section 3 of the bill (see technical note #1).
3. If the 58th Legislature does not increase the tax on cigarettes for the purpose of funding health care, the additional revenue raised by the surtax is to be distributed in equal amounts to fund 1) K-12 education, 2) the university system, and 3) health care. If the 58th Legislature does increase the tax on cigarettes for the purpose of funding health care, the additional revenue raised by the surtax is to be distributed in equal amounts to fund 1) K-12 education, and 2) the university system.

Individual Income Tax

4. This bill would provide for a 10 surtax on individual income tax liabilities for tax years 2003 and 2004.
5. The Department of Revenue will adjust withholding tables on July 1, 2003 to increase total withholding by 20% above current withholding levels; will adjust withholding tables on January 1, 2004 to increase total withholding by 10% above current withholding levels; and will adjust withholding tables on January 1, 2005 to current levels of withholding.
6. Taxpayers who file extensions pay their final tax liabilities when filing for the extension, and have no adjustments after June 30 of the year following the tax year for which payments are due.
7. Taxpayers who make quarterly estimated tax payments will adjust their payments to fully account for the surtax.

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8. Total tax liability for all filers for tax year 2003 is \$512.263 million; and for tax year 2004 is \$566.428 million. The surtax increases tax year 2003 tax liability by \$51.226 million and increases tax year 2004 liability by \$56.643 million, for a total increase in liability for both years of \$107.869 million.
9. All of the increase in tax year 2003 liability (\$51.226 million) will be collected in fiscal year 2004.
10. Based on collections patterns for fiscal years 2000 and 2001, 49.3% of the increase in tax year 2004 liability, or \$27.925 million, will be collected in fiscal year 2004 through increases in withholding and quarterly estimated tax payments. The balance of the increase in tax year 2004 liability, or \$28.718 million, will be collected in fiscal year 2005.
11. The above assumptions result in an increase in revenue in fiscal 2004 of \$79.151 million, and an increase in revenue in *fiscal* 2005 of \$28.718 million.

Corporation License Tax

12. For tax year 2003, for those corporations whose tax year coincides with the calendar year, quarterly estimated tax payments are scheduled to be made in April, June, September, and December of calendar 2003. Because it is assumed that this bill would not be passed and signed until at least mid-April, these corporations would not adjust their April or June quarterly estimated tax payments, but would make all adjustments for the tax year 2003 surtax on their September and December quarterly estimated tax payments (all in FY2004). These corporations must file their returns for the 2003 tax year by May 15, 2004 (also in FY2004); but these corporations may also request a 6-month extension to file, in which case the return would not be filed until November, 2004 (FY2005). Most of these corporations will file for an extension of time to file, but the vast majority of them will have paid their tax year 2003 liability within FY2004.
13. Based on this timing of events, it is assumed that 10% of the current law corporation license tax revenue estimate for fiscal 2004 is associated with tax year 2002 tax liabilities and would not be subject to the 10% surtax. The 10% surtax on the remaining 90% of fiscal year 2004 revenue would be collected 90% in fiscal 2004 and 10% in fiscal 2005.
14. For the fiscal 2005 current law corporation license tax forecast of revenue, 10% is associated with tax year 2003 tax liabilities, 80% is associated with calendar year 2004 liabilities, and 10% is associated with calendar year 2005 liabilities (not subject to surtax).
15. Under current law, corporation license tax collections are forecast to be \$64.782 million in fiscal 2004. This bill increases revenue in fiscal 2004 by \$5.247 million ($\$64.782 \times 90\% \times 90\% \times 10\% = \5.247 million).
16. The current law corporation license tax revenue forecast for fiscal 2005 is \$69.223. Under this bill, the 10% surtax on corporation license tax will increase fiscal 2005 revenues \$6.121 million ($\$64.782 \times 90\% \times 10\% \times 10\%$) plus ($\$69.223 \times 80\% \times 10\%$) = \$6.121 million.

Total Revenue Impact

17. This bill increases revenues a total of \$84.398 in fiscal 2004 and \$34.839 million in fiscal 2005 to the state special revenue account provided for in the bill. How these revenues will be distributed will depend on whether or not the 2003 Legislature increases cigarette taxes.
18. This bill has no administrative expense impact on the Department of Revenue.

FISCAL IMPACT:

Revenues:

State Special Revenue (02)

FY 2004
Difference
\$84,398,000

FY 2005
Difference
\$34,839,000

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

State Special Revenue (02)

\$84,398,000

\$34,839,000

Federal Special Revenue (03)

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TECHNICAL NOTES:

1. Section 3 of the bill provides that the additional tax collections from the individual income and corporation license tax surtaxes must be deposited in the state special revenue fund. This poses several administrative issues. First, it is assumed that the surtax, as in previous surtaxes, will apply to tax liability as liability is determined directly from the tax rate table, or in the case of corporations after applying the flat rate of 6.75% (or 7% for corporations using the water's edge method of filing). Thus, the surtax is determined before application of tax credits to the taxpayer's tax liability before credits.

If a taxpayer has credits, there is no indication in the bill how the credits are to be applied to the regular tax liability and the surtax on that liability. If the credits fully offset the combined tax liability and surtax, is the amount of the surtax to be transferred to the special revenue account anyway? If the tax credits offset only a portion of the combined regular tax liability and surtax, do the credits apply against the regular liability only?...against the regular liability and the surtax amount in proportion to these amounts?...against the surtax first?

2. Taxpayers can file amended returns for many years after the tax years for which the surtax would apply. In future years, would the Department of Revenue be required to adjust the surtax amount as tax liabilities are adjusted, and make offsetting adjustments to the state special revenue account to take these revised tax returns into account?